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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,276	11/15/2005	Ralph Edward Rypkema	102792-411 (11052P3)	8772
27389 7590 08/30/2007 NORRIS, MCLAUGHLIN & MARCUS 875 THIRD AVE 18TH FLOOR NEW YORK, NY 10022			EXAMINER BOYER, CHARLES I	
			ART UNIT 1751	PAPER NUMBER
			MAIL DATE 08/30/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/522,276

Applicant(s)

RYPKEMA ET AL

Examiner

Charles I. Boyer

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5, 7, 9 and 12-20 is/are pending in the application.
- 4a) Of the above claim(s) 13-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 7, 9, and 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This action is responsive to applicants' election and response received July 2, 2007. Claims 1-3, 5, 7, 9, and 12-20 are currently pending with claims 13-20 being withdrawn.

Election/Restrictions

Applicant's election with traverse of ethanoldiglycine in the reply filed on July 2, 2007 is acknowledged. The traversal is on the ground(s) that the examiner had not previously raised the election of species requirement. This is not found persuasive because initially, the chelants presently claimed were only present as a Markush group in a dependent claim, such that the single general inventive concept of the invention did not appear to lie with the chelant. As amended however, the chelants are now in the independent claim, and further, eight new claims have been added claiming separate and distinct chelants, such that the inventive concept of the invention appears now to lie with the chelants, and as many separate chelants are claimed, there is no single general inventive concept. The species lack the same or corresponding special technical features because the selection of one chelant or another will result in completely different compositions, all of which requiring a separate search. Prior art that will anticipate or render obvious one of these composition will not necessarily anticipate or render obvious another one of these compositions.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 102

All prior art rejections under 35 U.S.C. 102 are withdrawn in view of applicants' election and response.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 5, 7, 9, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sirianni et al, US 6,613,728.

Sirianni et al teach a hard surface disinfecting composition (see abstract). Suitable disinfectants of the invention include quaternary ammonium germicides (col. 4, lines 64-67) and suitable surfactants of the invention include ethoxylated alcohol nonionic surfactants and amine oxides (col. 6, lines 35-37 and col. 8, lines 1-56). Preferred ingredients of the invention include chelants, such as ethanoldiglycines (col. 10, lines 26-31). It would have been obvious to one of ordinary skill in the art to combine these preferred ingredients with a reasonable expectation of successfully obtaining an effective disinfecting hard surface composition.

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These disinfectant solutions are packaged in trigger or pump spray dispensers (col. 12, lines 38-44). While the reference does not teach these sprayers in aerosol form, that is, in use with a propellant, first, the examiner maintains that propellants are inert with respect to the composition they are used with and are merely a form of delivery of the composition. Therefore their inclusion cannot render patentable a composition that is taught by the prior art, save for said propellant. Furthermore, as aerosol dispensers are very well known in the art, one of ordinary skill would recognize that aerosol delivery systems are an obvious variant over manually triggered spray dispensers.

3. Claims 1-3, 5, 7, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Caswell et al, US 2003/0104969.

Caswell et al teach a fabric treating composition and method (see abstract). Suitable disinfectants of the invention include quaternary ammonium germicides (§203) and suitable surfactants of the invention include ethoxylated alcohol nonionic surfactants and amine oxides (§530 and §553). Preferred ingredients of the invention include chelants, such as ethanoldiglycines (§326) and the compositions may take the form of foams, sprays, and aerosols (§512). It would have been obvious to one of ordinary skill in the art to combine these preferred ingredients with a reasonable expectation of successfully obtaining an effective fabric treating composition.

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4. Claims 1-3, 5, 7, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bettiol et al, US 6,413,920.

Bettiol et al teach a fabric treating composition and method, an example of which comprises a quaternary ammonium germicide and a nonionic surfactant, wherein the composition is suitable for spray-on applications (col. 49, example 6D). Suitable surfactants of the invention include ethoxylated alcohol nonionic surfactants and amine oxides (col. 36, lines 46-67 and col. 37, lines 29-35). Suitable ingredients of the invention include chelants, such as ethanoldiglycines (col. 41, lines 33-40) and the compositions may be dispensed from non-manual powered spray dispensers (col. 43, lines 39-50). It would have been obvious to one of ordinary skill in the art to combine these preferred ingredients with a reasonable expectation of successfully obtaining an effective fabric treating composition.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory

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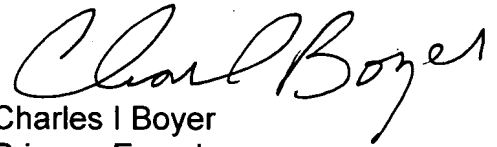
period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles I. Boyer whose telephone number is 571 272 1311. The examiner can normally be reached on M-Th 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on 571 272 1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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A handwritten signature in black ink, reading "Charles I Boyer". The signature is written in a cursive style with a large, stylized "C" and "B".

Charles I Boyer
Primary Examiner
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